

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 2, 2005, PLANNING COMMISSION MEETING

**P.A.S.:** Use Permit #148, King Crest Addition

**PROPOSAL:** To obtain a use permit for three lots with a total of 24,317 square feet of commercial floor area.

**LOCATION:** N. 27<sup>th</sup> and north of Folkways Boulevard.

**WAIVER REQUEST:**

Storm Water Detention

Front Yard setbacks

Minimum area

Preliminary Plat process

**LAND AREA:** 2.9 acres, more or less.

**CONCLUSION:** With conditions the use permit is in conformance with the Comprehensive Plan, Zoning and Subdivision Ordinances.

<b><u>RECOMMENDATION:</u></b>	Conditional Approval
<u>Waivers:</u>	
Storm Water Detention	Denial
Front Yard Setbacks	Approval
Minimum area	Approval
Preliminary Plat process	Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached.

**EXISTING ZONING:** B-2, Planned Neighborhood Business.

**EXISTING LAND USE:** Retail, residential.

**SURROUNDING LAND USE AND ZONING:**

North:	Undeveloped	B-2
South:	Undeveloped, restaurant, bank,	B-2, B-5
East:	Undeveloped	B-2
West:	Residential	R-2

**COMPREHENSIVE PLAN SPECIFICATIONS:** This area is shown as commercial in the Comprehensive Plan (F-25).

**HISTORY:** Use Permit 103B, King Ridge 2<sup>nd</sup> Addition was approved by the City Council in June 2001.

Change of Zone from R-3, Residential to B-2, Planned Neighborhood Business was approved by the City Council in November 2000.

King Ridge 1<sup>st</sup> Addition Preliminary Plat and Use Permit #103A were approved by the City Council in November 1999.

Kind Ridge Addition Preliminary Plat and Use Permit #103 were approved by the City Council in February 1998.

Change of zone from R-3, Residential to B-2, Planned Neighborhood Business and I-1, Industrial was approved by the City Council in March 1997.

The area was changed from AA, Rural and Public Use to R-3, Residential during the 1979 zoning update.

**UTILITIES:** Utilities are available to the site.

**TOPOGRAPHY:** The undeveloped property, where the residential house is presently, is several feet higher than the adjacent ground.

**TRAFFIC ANALYSIS:** Access was relinquished to the residential property, and was assumed to take future access through the King Ridge Use Permit area, however, due to grading (inconsistent with the King Ridge preliminary plat) and property owner differences, it appears this will not happen. The letter from the applicant indicates that the City Traffic Engineer agreed to one access point to N. 27<sup>th</sup> Street as shown on the site plan. However, the Public Works and Utilities Department memo indicates that access was purchased from the previous property owner and recommends the access be eliminated from the site plan. The present owner purchased the property with the understanding that access was controlled on N. 27<sup>th</sup> Street and that the city had previously paid for the access rights.

The distance between the proposed curb cut in Folkways Blvd. For their property is approximately 400 feet west of the median opening at the future N. 30<sup>th</sup> Street and Folkways Blvd.

N. 27<sup>th</sup> Street is classified as a major urban arterial. Folkways is classified as a local street. The preliminary plat shows 4-lane divided street paving, with two lanes presently built.

**ANALYSIS:**

1. This is a request to obtain a use permit for to expand a commercial building and add two new buildings with a total of 24,317 square feet of floor area. The applicant requests waivers to on site detention, front yard setbacks, minimum use permit area, and the preliminary plat process.
2. The property north of TO Haas Tire Store was not included in the King Ridge Use Permit. Planning Staff required the applicant for the King Ridge Use Permit to provide access to this lot, under the assumption that this lot would eventually be incorporated into the King Ridge Use Permit. However, the grading plan for the King Ridge Use Permit lowered the grade approximately 20 feet from the property north of the TO Haas Tire Store. The northern property and TO Haas were able to come together to form a separate and new use permit, King Crest Addition. The B-2 district has a minimum 5 acre area requirement that the Planning Commission may modify under two conditions. Section 27.31.100(l) indicates:  
  
(l) A use permit may be granted for a lot of less than five acres, provided:  
(1) The lot was legally created prior to the effective date of this ordinance;  
(2) The lot has remained under separate ownership from adjoining properties in the B-2 district.  
  
The Planning Commission may, under the above conditions, adjust the requirements under paragraph (b) to permit the applicant a reasonable use of his property.
3. The applicant's attorney submitted a letter indicating that it is their opinion that the lots meet this requirement.
4. The applicant requests to reduce the front yard setback along Folkways Boulevard from 50' to 42' and to justify the reduction has provided additional screening along the frontage of Folkways Boulevard. Staff believes this is acceptable since the applicant is mitigating the loss of setback with 90% screening from 2'-4'.
5. The applicant requests to waive the preliminary plat process and coordinate the preliminary plat with the use permit is acceptable to the Planning Department because it streamlines the development process and eliminates duplicate process.
6. The Public Works and Utilities Department has several comments in their attached memo. The Public Works and Utilities Department indicated that the request to waive detention is unacceptable unless the adjoining property owner agrees to handle the increased runoff produced by this development.
7. The Lincoln Lancaster County Health Department has two advisory comments in their attached memo.

**CONDITIONS:**

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

- 1.1 Revise the site plan to show:
  - 1.1.1 All required waivers in the waiver requests table.
  - 1.1.2 Revisions to the satisfaction of the Parks Department memo dated January 4, 2005.
  - 1.1.3 Revisions to the satisfaction of the Public Works and Utilities Department memo dated December 30, 2004.
  - 1.1.4 Provide LES easements as requested in the January 4, 2005 memo.
  - 1.1.5 Landscaping to provide 90% screen and the plants on private property.
  - 1.1.6 Show sidewalk from Folkways Blvd. to Building B from Building A and along the north side of Outlot A from N. 27<sup>th</sup> Street to Building B.
  - 1.1.7 Reduce the radius of the curbs NW and NW of the TO Haas building and SE of Building A.
  - 1.1.8 Indicate the lot number for the TO Haas property.
  - 1.1.9 Revise the building and parking stall summary table to reflect a restaurant in Building B.
- 2. This approval permits 24,317 square feet of commercial floor area and a modification to the front yard setback, minimum use permit area and waive the preliminary plat process.
- 3. Final Plats will be approved by the Planning Director after:
  - 3.1 The sidewalks, streets, drainage facilities, street lighting, landscape screens, street trees, temporary turnarounds and barricades, and street

name signs have been completed or the subdivider has submitted a bond or an escrow of security agreement to guarantee their completion.

3.2 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:

to complete the installation of sidewalks as shown on the final plat within four (4) years following the approval of this final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of this final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of this final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat.

to complete the installation of public street lights within this plat within two (2) years following the approval of this final plat.

to complete the planting of the street trees within this plat within four (4) years following the approval of this final plat.

to complete the installation of the street name signs within two (2) years following the approval of this final plat.

to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to complete the public and private improvements shown on the preliminary plat Use Permit.

to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

to submit to the lot buyers and builders a copy of the soil analysis.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to protect the trees that are indicated to remain during construction and development.

to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.

to relinquish the right of direct vehicular access from Outlot A to N. 27<sup>th</sup> Street.

General:

4. Before receiving building permits:

4.1 The permittee shall have submitted a revised and reproducible final plan including 7 copies.

4.2 The construction plans shall comply with the approved plans.

4.3 Final Plats shall be approved by the City.

**STANDARD CONDITIONS:**

5. The following conditions are applicable to all requests:

5.1 Before occupying the buildings all development and construction shall have been completed in compliance with the approved plans.

5.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.

5.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

5.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

5.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

6. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

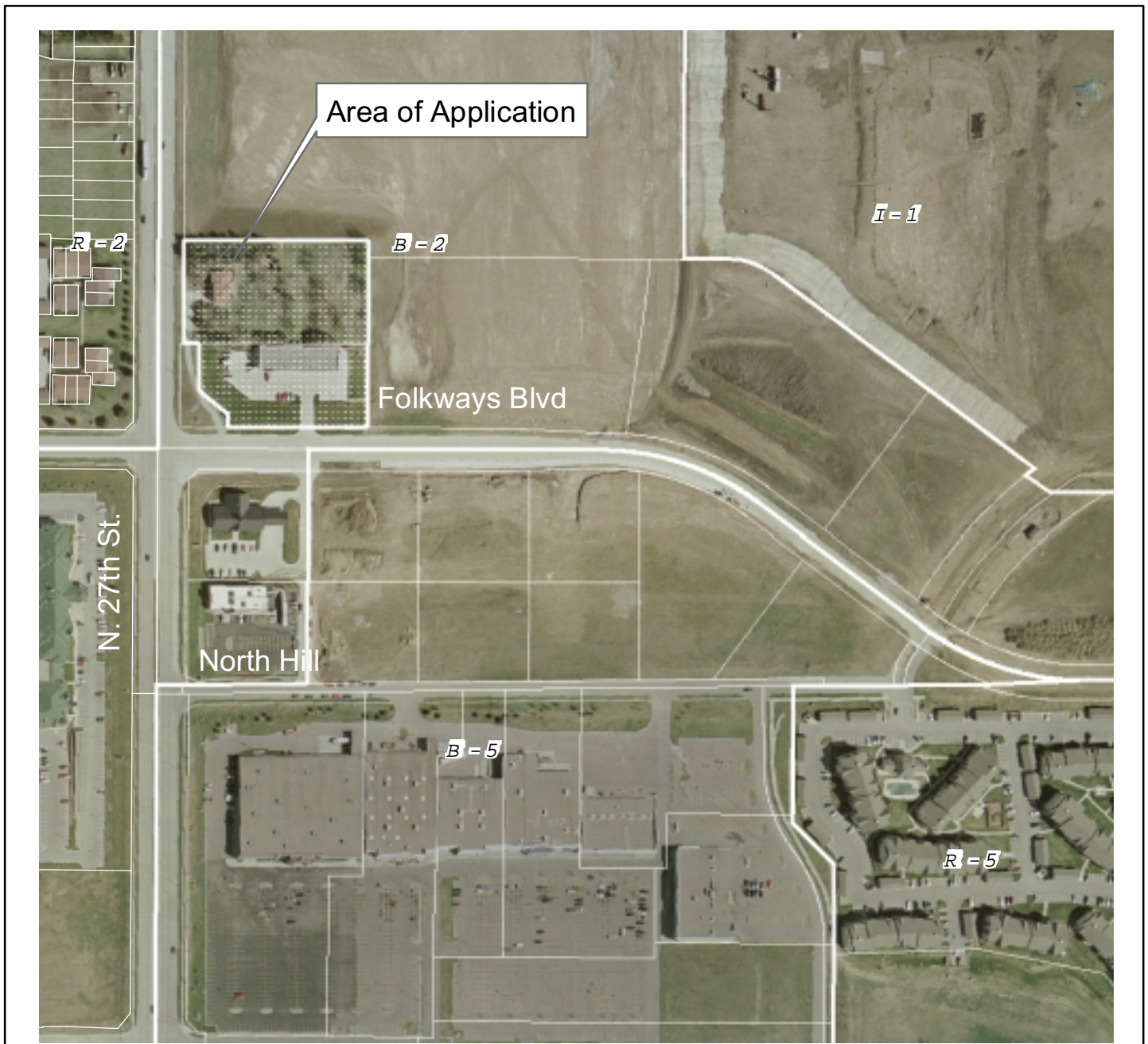
Becky Horner, 441-6373, [rhorer@lincoln.ne.gov](mailto:rhorer@lincoln.ne.gov)  
Planner

**DATE:** January 20, 2005

**APPLICANT:** Ron Ross  
Ross Engineering  
201 N. 8<sup>th</sup> Street, Suite 104  
Lincoln, NE 68508

<b>OWNER:</b>	Elliot Rustadt	Randy Haas
	3220 Weaver Lane	TO Haas Tire Store
	Lincoln, NE	PO Box 81607
	484-6222	Lincoln, NE 68501
		474-1525

**CONTACT:** Ron Ross  
(402)474-7677



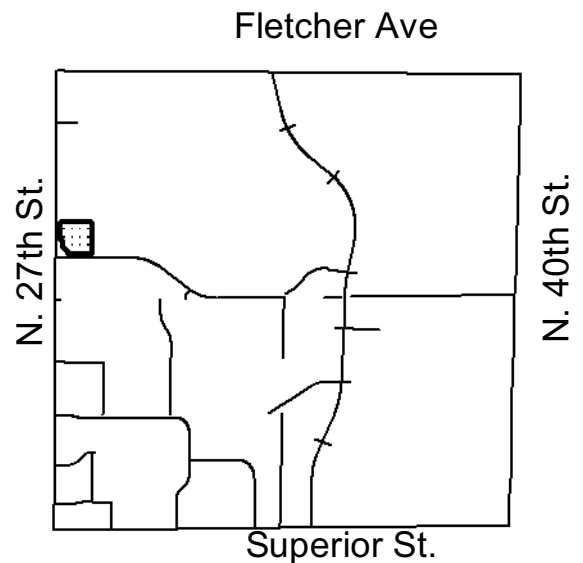
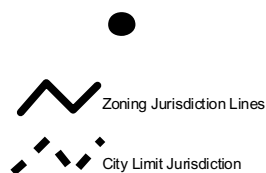
2002 aerial

# **Use Permit #148** **King Crest Addition** **N. 27th & Folkways Blvd.**

## **Zoning:**

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
 Sec. 6 T10N R7E





City of Lincoln  
Department of Public Works  
Engineering Division

Project No. \_\_\_\_\_  
Sheet No. \_\_\_\_\_

Project Name  
KING CREST ADDITION

Location  
14.8TH STREET AND FOLLOWING BLVD

Scale  
AS SHOWN

DATE  
JAN 1968

BY  
J. H. HARRIS

CHECKED BY  
J. H. HARRIS

APPROVED BY  
J. H. HARRIS

SEAL OF THE CITY OF LINCOLN, NEBRASKA

USE PERMIT #1030

DATE  
JAN 1968

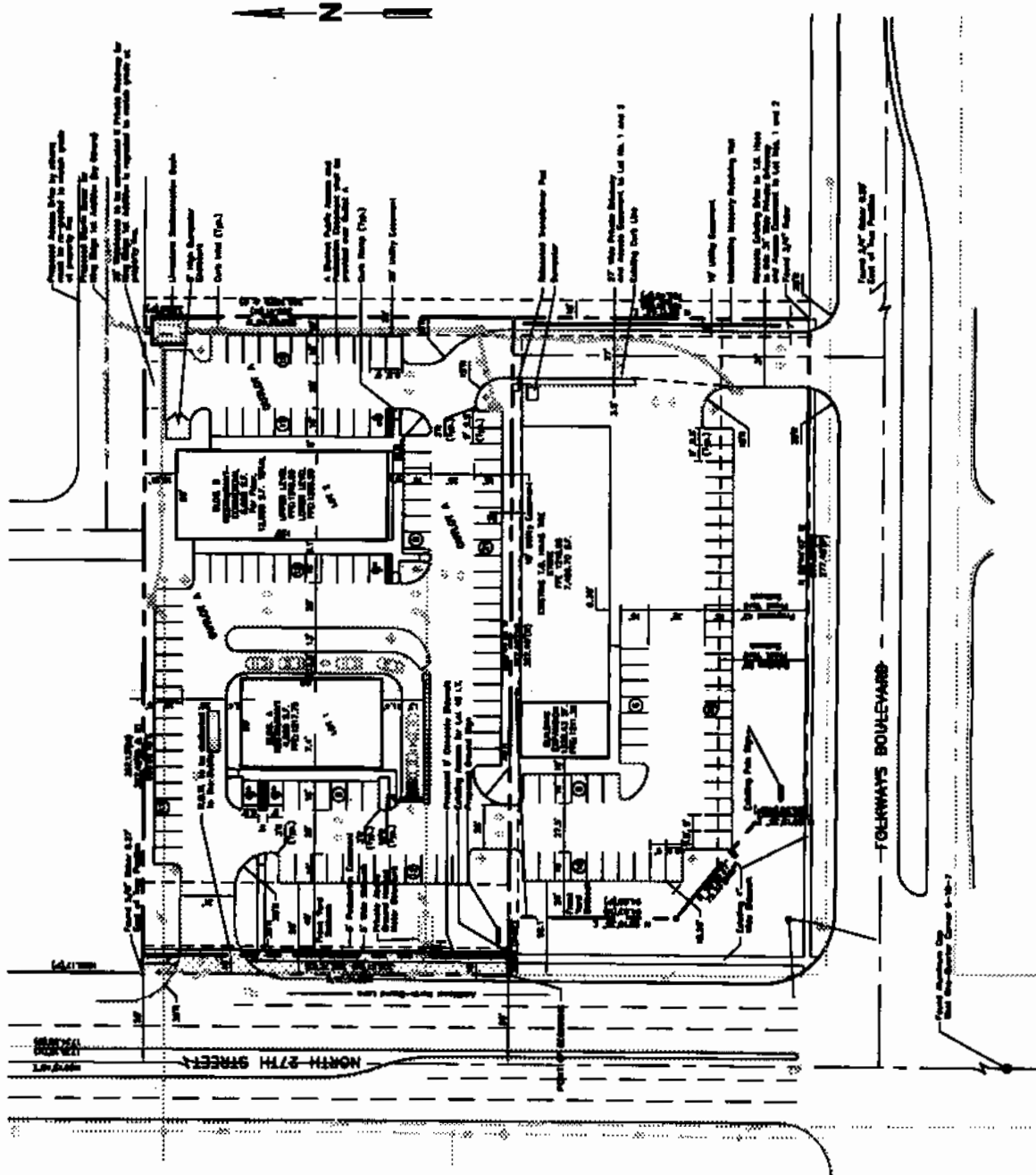
# SITE PLAN

USE PERMIT #1030

BUILDING AND PARKING STALL SUMMARY				
USE	FOOT WALL	END WALL	END WALL	END WALL
CONSTRUCTION	11,000 S.F.	4,500 S.F.	34,000 S.F.	50,000 S.F.
REPAIRMENT	4,000 S.F.	1,000 S.F.	40,000 S.F.	40,000 S.F.
TOTAL	15,000 S.F.	5,500 S.F.	74,000 S.F.	90,000 S.F.

## NOTES

1. The existing building is to be demolished and a new building is to be constructed on the same site. The new building is to be constructed on the same site as the existing building. The new building is to be constructed on the same site as the existing building.
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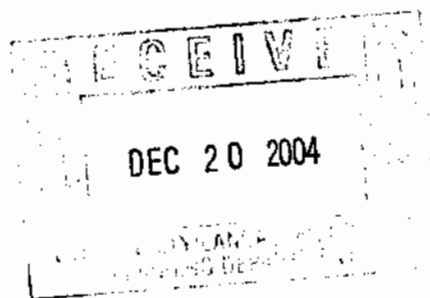




**ROSS**  
**E**ngineering,  
**I**nc.

December 17, 2004

Mr. Marvin Krout  
Director of Planning  
County-City Building  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508



RE:     **Use Permit # 103C**  
          King Crest  
          North 27<sup>th</sup> Street and Folkways Boulevard  
          Lincoln, Nebraska  
          REI Project No. 136702-B

**ESTABLISHED**  
**1974**

*Innovative  
Designs  
For the  
Future of  
Tomorrow*

Dear Marvin:

On behalf of Dr. Elliot Rustad and Mr. Randy Haas with T.O. Haas Tire Store we are resubmitting the revised Use Permit drawings for King Crest. The Use Permit consists of Lot 48 Irregular Tract and Lot 1, King Ridge First Addition; both located in the Northwest Quarter of Section 6, Township 10 North, and Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. The total area for the Use Permit is 3.00 Acres and the property is zoned B-2. The proposed development is generally located at the northeast corner of North 27<sup>th</sup> Street and Folkways Blvd.

Lot 1 of King Ridge First Addition is owned by T.O. Haas Tire Store and was included in the original Use Permit No. 103B for King Ridge Addition. Lot 48 I.T. is owned by Dr. Rustad and was excluded from the formal Use Permit approved by the City Council. Lot 48 I.T. currently has a ranch style single-family residence that will be relocated upon approval of the proposed Use Permit.

#### USE PERMIT

The original Use Permit application was submitted in October of 2002 and is still active. The City of Lincoln sent a letter dated December 10, 2002 to REI with comments. The owners did not pursue the development at that time due to the complications arising with the discovery of controlled access along North 27<sup>th</sup> Street. After substantial review, attempts to work with the King Ridge developer and meetings and discussions with various City Departments, the owners would like to again request vehicular access along North 27<sup>th</sup> Street and attempt to work out a resolution to the controlled access. Enclosed is a letter from attorney Mark Hunzeker, which outlines our position regarding access to the Dr. Rustad lot. It should be noted that Lot 48 I.T. was created prior to adoption of Section 27.31.100 (L). This lot is zoned B-2, is adjacent to North 27<sup>th</sup> Street and has a legal access to Folkways Blvd.

#### A BRIEF HISTORY

Dr. Rustad originally had REI submit an application for a Preliminary plat and Use Permit in October of 2002. Dr. Rustad was not aware that his property had controlled access along North 27<sup>th</sup> Street. The existing residence has access from a 12-foot wide crushed rock drive that leads south to Folkways Boulevard. City Staff have commented that the crushed rock drive was provided only as a temporary access for the current residence, and that it would not be allowed for commercial use. City Staff have indicated that when the residence is no longer used this crushed rock access drive will be eliminated and access to Lot 48 I.T. would be through King Ridge development, which lies to the north and east of the Rustad Property. The attorneys for the two owners can find no record that the crushed rock access is considered a temporary access that is intended to eventually be eliminated.

Prior to the discovery of controlled access along North 27<sup>th</sup> Street the City of Lincoln Traffic Engineer, Randy Hoskins, agreed that access from North 27<sup>th</sup> Street to the Rustad property would be allowed with a drive, provided a north bound turn lane was also constructed.

The Candy Factory  
201 North 8th Street  
Suite 401  
Lincoln, NE 68508  
Phone 402.474.7677  
Fax 402.474.7678

www.rossengineering.com



The City also asked Dr. Rustad to work with Ridge Development, the developers of King Ridge to the east of Rustad in order to work out access through their property. The engineer for Ridge Development, Mark Palmer, with Olsson Associates talked with Tom White of Ridge Development. According to Mark, Tom was not interested in granting an easement or selling a small tract of land along the east side of the Rustad and T.O. Haas lot to allow for vehicular access. Nor was Ridge Development willing to regrade their site to meet the existing grade at the common property line with the Rustad property.

After the second meeting with City Staff, Ray Hill from the Planning Department suggested that we again attempt to work out a grading and access solution with King Ridge. Tom White's attorney, DaNay Kalkowski, informed us that we should follow their approved Grading Plan, or purchase a lot from Ridge Development. She later wrote the Planning Department and indicated that her client had spent a great amount of effort and cost in obtaining approval of the Use Permit and that they felt that the best situation for Rustad was to simply abide by the approved Grading Plan. No mention was made of the fact that the approved Grading Plan showed massive site grading and completed tree removal being required on Lot 48 I.T., owned by Dr. Rustad, and that this lot was not included within the limits of the Preliminary Plat and Use permit for King Ridge.

It was at this point that Randy Hoskins agreed to grant access for the Rustad property to North 27<sup>th</sup> Street. Public Works Department required a third north-bound lane of traffic be built at the time of construction of the proposed driveway. The third lane of traffic would serve as a deceleration lane, just as it does across Lincoln Crossing Shopping Center from Superior Street north to North Hill Road. The proposed driveway access from North 27<sup>th</sup> Street would also greatly improve access to the T.O. Haas property, adjacent and south of the Rustad property, by means of the proposed north-south interior driveway connection.

Dr. Rustad's attorney, Mark Hunzeker, T.O. Haas attorney, Bill Olson, members of Planning and the Public Works and Utilities Departments, as well as staff from this firm have met again, hoping to negotiate a resolution. After City review, REI was sent the following email from the Planning staff:

"Public Works will not allow any additional access to North 27th Street from this property, or additional access points along the King Crest or King Ridge Use Permit properties (excepting those which are already part of the approved Use Permit). Public Works noted that they have repeatedly indicated both to Ross Engineering as well as to Mark Hunzeker that access would not be granted. The position of the City Staff is that internal access was provided with the approved Use Permit. Any deviation from or issue with that access is a private matter between property owners."

#### **USE AND BUILDINGS:**

The two proposed buildings on Rustad's property have been reconfigured. The location of the drive-thru restaurant has been rotated and moved south in order to allow an access to the northern most portion of the site as suggested by the Planning and Public Works Departments. This building envelope is approximately 50 foot by 80 foot, creating 4,000 square feet of building. A drive-thru lane runs along the east side of the building.

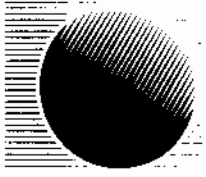
The 12,000 square foot two-level proposed commercial retail and office building was modified only slightly since the previous submittal. It still has two-levels at grade with access to the top level from the west side of the building at grade and access to the lower level from grade from the east side. Handicap access is provided for both sides of the building from adjacent parking stalls. It is anticipated that the commercial and retail uses will occur on the top level and office type uses will occur on the lower level.

#### **WAIVERS:**

The following waivers to the Lincoln Municipal Code are requested:

##### ***DRAINAGE:***

Additional detention for the Rustad property is not required because drainage was provided as part of the drainage and detention system planned for King Ridge 1<sup>st</sup> Addition. The enclosed approved Use Permit Drainage Plan shows the Rustad and T.O. Haas property included in the calculations for the approved Use Permit. Storm water runoff will discharge into the proposed storm sewer system for King Ridge. Runoff from both the Rustad and the T.O. Haas property was included in the original approved Use Permit for King Ridge and was planned to discharge into the proposed storm sewer system and the detention facilities approved for King Ridge Addition.



#### **FRONT YARD SETBACK:**

We are requesting a waiver to reduce the front yard setback along Folkways Blvd. We are requesting additional space to accommodate through traffic in front of the existing T.O. Haas Tire Store. The current parking layout was designed to handle minor amounts of traffic and no through traffic. With the recent elimination of the median opening in front of the T.O. Haas Tire Store at their existing driveway entrance, reasonable access to North 27<sup>th</sup> Street does not exist, and a connection is now proposed to the Rustad property to the north. This will increase the traffic within the T.O. Haas parking lot and increase the danger of fender benders in the parking lot. In order to create a safe distance between parked cars, along the east-west driveway we are requesting eight feet of the 50-foot front yard setback. Planning Staff indicated they would support the waiver of front yard setback if the developer would increase the screening to 90% of the entire length of the front yard. We now show screening at 90% of the front yard visual plane on the Landscape Plan.

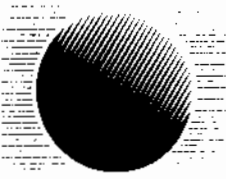
#### **RESPONSES TO THE COMMENT LETTER FROM THE CITY OF LINCOLN DATED 12/5/2002:**

1. Preliminary Plat reference will be removed, and this letter will serve as a formal request to withdraw the original Preliminary Plat.
2.
  - a. A 16-inch water main will be extended along the east side of North 27<sup>th</sup> Street. It will be constructed by an Executive order and a private 6-inch water service will serve the Rustad property.
  - b. The 8-inch sanitary sewer is now properly labeled along North 27<sup>th</sup> Street.
  - c. The lower level of the Commercial building will be served with an ejector pump.
  - d. Detention calculations for the existing Use Permit King Ridge 1<sup>st</sup> Addition are included with this submittal. The approved Use Permit for King Ridge 1<sup>st</sup> Addition created adequate detention for the Rustad and T.O. Haas property. Storm water from those lots was designed to sheet drain to an inlet structure at the east edge of sub-area D3 on the King Ridge 1<sup>st</sup> Addition Drainage Plan. Refer to sub-area D3 on the enclosed Drainage Plan. Storm water then flows through a 24" RCP to a 36" RCP until it reaches a large open swale running to the north along the west property line of King Ridge 1<sup>st</sup> Addition. The drainage swale empties into a large wetland north of King Ridge 1<sup>st</sup> Addition.  
  
The total impervious surface of sub-area D3 has not changed from the calculated amount for the Use Permit for King Ridge 1<sup>st</sup> Addition. The Use Permit for King Ridge 1<sup>st</sup> Addition shows the grading of Dr. Rustad's property down by means of a steep sloped embankment along Rustad's west and south property lines. Due to the City's approval of grading not within the boundary of the Use Permit for King Ridge 1<sup>st</sup> Addition; the steep slope embankment had to be shifted to the north and east property line of Dr. Rustad's property only after Ridge Development failed to acquire Dr. Rustad's land, which assumed a coefficient of runoff of 0.70 and is the same as now shown for the Rustad property.
  - e. The Grading Plan has been revised to eliminate grading outside the Dr. Rustad and T.O. Haas property.
  - f. The storm water outlet to the north and east, which was previously shown as a 15-inch RCP, has been increased in size to an 18-inch RCP.
  - g. The North 27<sup>th</sup> Street access issue was addressed in detail above, but in summary:

Dr. Rustad and Randy Haas would like the City to approve driveway access along North 27<sup>th</sup> Street to the Rustad Lot. Our position is outlined in an enclosed letter from the attorney Mark Hunzeker. Due to misrepresentation on the original Use permit Grading Plan and disregard by the City of the fact that this site grading was shown and yet no authorization provided by the owner of Lot 48 I.T., and due to no means of Dr. Rustad being able to require the approved Private Roadway to be constructed to the north and east of Lot 48 I.T., the proposed driveway access from North 27<sup>th</sup> Street is deemed to be a reasonable resolution of the current situation. The only other remedy is to take the matter to court and fight the issue as well as request damages as a result of the Use Permit approved by the City.



- h. The vacation of North 27<sup>th</sup> Street ROW will not be requested.
  - i. Except for the Building envelopes, the Rustad lot will be an Outlot, and a blanket common access easement will be granted over the Outlot.
- 3. Utility Easements from LES memo have been added to the drawings.
- 4. Fire Hydrants have been added per the City's request.
- 5. The comments from the City of Lincoln Health Department have been noted and will be addressed with the construction drawings.
  - a. Private water well will be removed once construction begins.
  - b. The on-site Septic System will be removed according to City standards.
  - c. Wind and water erosion will be handled according to City standards.
  - d. The off-site dust emissions will be handled according to City standards.
  - e. Trees will be saved wherever possible and tree waste will be disposed in appropriate landfill locations.
- 6. The Landscape Plan has been corrected to show existing Skyline Honey locust street trees along Folkways Blvd that were shown on the Topographic Site Plan but not on the Landscape Plan.
- 7. The previous Crabapple species have been replaced with Callaway Crabapple species.
- 8. The Silver Maples were replaced with Skyline Honey locusts but the Gingkos were left as is.
- 9. Parking Lot dimensions have been added.
- 10. 10-foot of additional ROW were added to the previous 50-foot ROW as measured from centerline of N. 27<sup>th</sup> St.
- 11. The City has requested access be shown from Dr. Rustad's property to King Ridge to the north. An access will be provided to the north only if King Ridge 1st Addition revises its Grading Plan for King Ridge 1st Addition to meet Subdivision requirements to match grading at adjacent property. The City of Lincoln had no authority to approve grading of the Rustad property; and has lessened the value of the Rustad property. The City of Lincoln has also failed to follow their own Design Standard approving a Grading Plan showing access 16 feet below the adjacent property grades. In order to remedy this situation, access at North 27<sup>th</sup> Street is requested along the west property line of Lot 48 I.T. If King Ridge 1<sup>st</sup> Addition regrades their property to match existing grades at the property line, an access will be constructed from the Rustad parking lot to a Private Roadway to the north.
- 12. The original Private Roadway from Folkways Blvd. has been withdrawn, and now is considered a private driveway with a common Access Easement.
- 13. An off-site improvement Agreement should be drafted and sent to us as soon as possible by the City Attorney or Planning Staff.
- 14. The Surveyor's Certificate has been revised to read correctly.
- 15. References to "Rustad's Addition Plat" have been removed from the Use Permit.
- 16. The Existing Topographic Site Plan has been revised to show the trees that will be removed with hatching.
- 17. Landscape Plan has been revised to show the mature height and existing materials.



18. All plant material has been identified in the landscape schedule.
19. We have made several attempts to work with the owner of King Ridge First Addition, and they have refused to provide a reasonable remedy for the access issue.
20. An Ownership Certificate will be forwarded to the City of Lincoln shortly following this submittal.
21. The existing T.O. Haas Store entrance is labeled as relocated on the Site Plan.
22. A parking legend now shows the parking required per building.
23. Building Envelopes on the Rustad lot have been identified as A and B.
24. A ground sign has replaced the pole sign on the Rustad lot.
25. Sidewalks will no longer be required because the original Private Roadway has been reclassified as Private Driveway.
26. A Building Envelope has been illustrated for the T.O. Haas building.
27. The Side yard setback is 0 feet for nonresidential in B-2, and is not labeled.
28. The only setback required is the frontyard setback of 50-feet and it is labeled on the Site Plan.
29. Proposed lot numbers have been clearly identified. Lots will be created by an Administrative Final Plat.

In summary, we believe this submittal meets the standards set forth by the City of Lincoln, and we appreciate your time and consideration. We would be more than happy to meet with City Staff to review the process that went into getting this proposal together and to explain the overall scheme of the proposed development. Please call me if you have any questions.

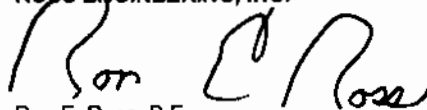
Included in this submittal are the following drawings:

1. Cover Sheet	21 copies
2. Existing Topographic Site Plan	21 copies
3. Site Plan	21 copies
4. Utility Plan	21 copies
5. Grading Plan	21 copies
6. Drainage Area Plan	21 copies
7. Landscape Plan	21 copies
8. King Ridge First Addition Use Permit Site Plan	1 copy
9. King Ridge First Addition Use Permit Drainage Plan	1 copy
10. King Ridge First Addition Use Permit Details & Calculations	1 copy

cc: Randy Haas  
Bill Olson  
Mark Hunzeker

Enclosure  
136702L05 Submittal letter.doc

Sincerely,  
**ROSS ENGINEERING, INC.**

  
Ron E. Ross, P.E.

President

**Pierson|Fitchett**  
LAW FIRM

1045 Lincoln Mall  
Suite 200  
P.O. Box 95109  
Lincoln, NE 68509  
(402) 476-7621  
fax (402) 476-7465  
[www.piereson-law.com](http://www.piereson-law.com)

Thomas J. Fitchett  
Mark A. Hunzeker  
William G. Blake  
Peter W. Katt  
William C. Nelson  
David P. Thompson  
Patrick D. Timmer  
Randy R. Ewing  
Shanna L. Cole  
Jason L. Scott

Gary L. Aksamit  
of Counsel

January 14, 2005

Becky Horner  
Planning Dept.  
City of Lincoln  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

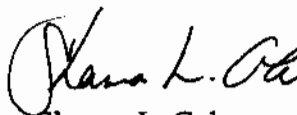
Re: Elliott Rustad property

Dear Becky:

After a review the county records, it is our opinion that the Rustad property was under separate ownership as of the date of the ordinance and that no adjoining property was owned by the previous owners of what is now the Rustad property. As of the date of the ordinance, the property owners were David and Judy Lewis who conveyed it to the Rustads in 2000.

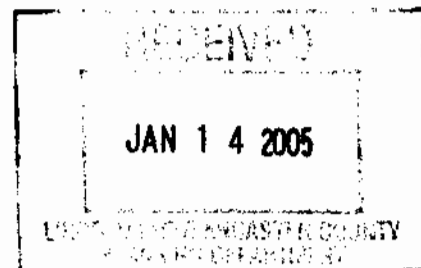
Please contact Mark Hunzeker if you have further questions or concerns.

Sincerely,



Shanna L. Cole  
For the Firm

(G:\WPData\MH\Rustad 872.002 N 27th\Horner 1-14-5.ltr.wpd)



**Pierson, Fitchett, Hunzeker, Blake & Katt**

## Exhibit A

### LEGAL DESCRIPTION

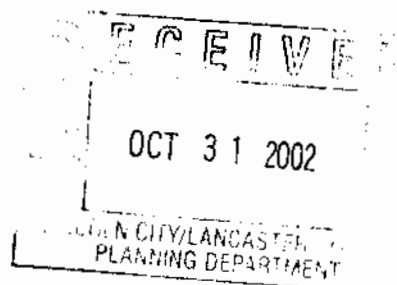
A Legal description of Lot 48 Irregular Tract and Lot 1, Block 1, King Ridge 1<sup>st</sup> Addition to the City of Lincoln, all located in the Northwest Quarter of Section 6, Township 10 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska and more particularly described by metes and bounds as follows:

Referring to the West One-Quarter Corner of Section 6, Township 10 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska; Thence N 00°15'35" E, (an assumed bearing), and on the West Line of the Northwest Quarter of said Section 6, a distance of 701.26 feet to a point on the West Line of the Northwest Quarter of said Section 21; Thence S 89°44'25" E, and perpendicular to the West Line of the Northwest Quarter of said Section 6, a distance of 50.00 feet to a set 5/8" Rebar, being the Southwest Corner of Lot 48 Irregular Tract, located in the Southwest Quarter of the Northwest Quarter of Section 6, Township 10 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska and a point on the East Right-of-way Line of North 27<sup>th</sup> Street and also said point is the POINT OF BEGINNING; Thence N 00°15'35" E, 50 feet east and parallel with the West Line of the Northwest Quarter and on the West Line of Lot 48 Irregular Tract of said Section 6 or the East Right-of-way Line of said North 27<sup>th</sup> Street, a distance of 208.61 feet to a found 5/8" Rebar, being the Northwest Corner of Lot 48 Irregular Tract of said Section 6 or the Southwest Corner of Outlot "C", Block 1 of King Ridge 1<sup>st</sup> Addition to the City of Lincoln, located in the Northwest Quarter of Section 6, Township 10 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska; Thence S 89°52'18" E, and on the North Line of Lot 48 Irregular Tract of said Section 6 or the South Line of Outlot "C", Block 1 of said King Ridge 1<sup>st</sup> Addition, a distance of 367.13 feet to a found 5/8" Rebar, being the Northeast Corner of Lot 48 Irregular Tract of said Section 6; Thence S 00°09'49" W, and on the East Line of Lot 48 Irregular Tract of said Section 6 or on the West Line of Outlot "C" and Outlot "D", Block 1 of said King Ridge 1<sup>st</sup> Addition, a distance of 209.41 feet to a found 3/4" Rebar, being the Southeast Corner of Lot 48 Irregular Tract of said Section 6 or the Northeast Corner of Lot 1, Block 1 of said King Ridge 1<sup>st</sup> Addition; Thence S 00°11'43" W, and on the East Line of Lot 1 or West Line of Outlot "D", Block 1 of said King Ridge 1<sup>st</sup> Addition, a distance of 168.51 feet, to a found 3/4" Rebar, being the Southeast Corner of Lot 1 or the Southwest Corner of Outlot "D", Block 1 of said King Ridge 1<sup>st</sup> Addition and also said point being on the North Right-of-way Line of Folkways Boulevard; Thence N 89°44'47" W, and on the South Line of Lot 1, Block 1 of said King Ridge 1<sup>st</sup> Addition or the North Right-of-way Line of said Folkways Boulevard, a distance of 277.67 feet to a set 5/8" Rebar, being the South-Southwest Corner of Lot 1, Block 1 of said King Ridge 1<sup>st</sup> Addition and also said point being on the East Right-of-way

OCT 31 2002

LINCOLN CITY/LANCASTER CO.  
PLANNING DEPARTMENT

Line of said North 27<sup>th</sup> Street; Thence N 00°15'35" E, and on the West Line of Lot 1, Block 1 of said King Ridge 1<sup>st</sup> Addition or the East Right-of-way Line of said North 27th Street, a distance of 25.50 feet to a set 5/8" Rebar; Thence N 50°05'27" W, and on the West Line of Lot 1, Block 1 of said King Ridge 1<sup>st</sup> Addition or the East Right-of-way Line of said North 27th Street, a distance of 75.33 feet to a set 5/8" Rebar; Thence N 00°15'35" E, and on the West Line of Lot 1, Block 1 of said King Ridge 1<sup>st</sup> Addition or the East Right-of-way Line of said North 27th Street, a distance of 94.93 feet to a set 5/8" Rebar, being the Northwest Corner of Lot 1, Block 1 of said King Ridge 1<sup>st</sup> Addition and also said point is on the South Line of Lot 48 Irregular Tract of said Section 6; Thence N 89°44'51" W, and on the South Line of Lot 48 Irregular Tract of said Section 6 or the North Right-of-way Line of said North 27th Street, a distance of 32.00 feet to the point of beginning and containing a calculated area of 130,444.46 square feet or 2.995 acres, more or less.



INTER-DEPARTMENT COMMUNICATION



**DATE:** January 3, 2005  
**TO:** Becky Horner, City Planning  
**FROM:** Sharon Theobald  
Ext 7640  
**SUBJECT:** DEDICATED EASEMENTS  
DN# 55N-27E

UP #103C

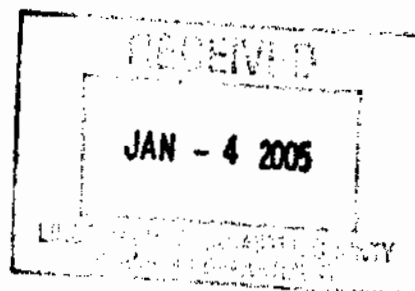
Attached is the Use Permit for King Crest Addition.

**In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.**

ALLTEL, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map. Also, please include "utility" in the public access easement, as noted.

It should be noted, any relocation of existing facilities will be at the owner/developer's expense. Also, additional easements may be required.

*Sharon Theobald*



ST/ss  
Attachment  
c: Terry Wiebke  
Easement File

# Memorandum

<b>To:</b>	Becky Horner, Planning Department
<b>From:</b>	Dennis Bartels, Engineering Services
<b>Subject:</b>	King Crest Use Permit
<b>Date:</b>	December 30, 2004
<b>cc:</b>	Randy Hoskins Roger Figard

Engineering Services has reviewed the proposed Use Permit #103C located east of North 27th Street north of Folkways Boulevard and has the following comments:

1. Water - The proposed water system to serve this development is satisfactory.
2. Sanitary Sewer - The proposed sanitary sewer to serve this development is satisfactory.
3. Grading and Drainage - The application letter states that no grading will need to occur outside this development yet this plan shows a storm sewer outlet 4' to 6' below the existing ground line on the adjacent property. Grading will need to occur on the property to the north outside this development to outlet this storm sewer unless or until the storm sewer shown to the north is built. Mr. Hunzeker, the attorney for the developer, states that the grading plan for King Ridge showing potential grading on this applicant property was approved without notification of this applicant. To avoid this problem for the present application, this Use Permit should be conditioned upon notification and permission of adjacent land owners to accomplish off-site grading shown on this plan.

The plan as submitted shows regrading of the North 27th Street right-of-way west of the TO Haas site and constructing the required screening for the parking lot in City right-of-way. This grading and screening is unsatisfactory in the public right-of-way.

The application proposes to take credit for the drainage and detention proposed for the adjacent development but does not propose to meet the grading and access provisions of the approved plan. The detention for the original King Ridge Use Permit and preliminary plat was waived because of its proximity to the Salt Creek flood plain and permission from adjacent property owners. Since this application is requested separate from the previous application, detention should be provided for the Rustad property portion of this application unless the adjoining property agrees to handle the increased runoff produced by this development.

4. Access - The City has purchased access control for the frontage of this property along North 27th Street. When the original King Ridge plat and use permit was reviewed, the

December 30, 2004

City required that access be provided to this property in part because of this access control. The access control was purchased with public funds to increase the safety and efficiency of 27th Street. Public Works still believes that the access control is desirable and recommends that access not be sold back to the property owner. The plan should be revised to eliminate access to North 27th Street.

# Memo



**To: Tom Cajka, Planning Department**

**From: Mark Canney, Parks & Recreation**

**Date: January 4, 2005**

**Re: King Crest (Resub) UP 103C**

---

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and the following comments:

1. Please identify and locate existing/proposed street trees for the project.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248. Thank you.

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT  
INTER-OFFICE COMMUNICATION**

**TO:** Becky Horner

**DATE:** January 10, 2005

**DEPARTMENT:** Planning

**FROM:** Chris Schroeder

**ATTENTION:**

**DEPARTMENT:** Health

**CARBONS TO:** EH File  
EH Administration

**SUBJECT:** King Crest  
UP #103C

The Lincoln-Lancaster County Health Department has reviewed the proposed development with the following noted:

- All wind and water erosion must be controlled during construction. The Lower Platte South Natural Resources District should be contacted for guidance in this matter.
- During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.